

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 304
SACRAMENTO, CA 95814
(916) 632-6291
Fax (916) 637-8390
Web Site www.nahc.ca.gov
e-mail: na_nahc@pannet.net



M E M O R A N D U M

June 9, 2010

TO: Larry Myers, NAHC Manager

RE: Staff Response to "Executive Summary of Padre Dam Municipal Water District in Opposition to Proposed Findings in the NAHC Staff Investigation Report – Item 4"

- A. *"The Site Was Not Designated as a Native American 'Sanctified Cemetery, Place of Worship, Religious or Ceremonial Site, or Sacred Shrine' Under Public Resources Code Section 5097.9"*

Response: True; The Staff is recommending that the Commission declare the Padre Dam Municipal Water District project site (e.g. Ridge Hill Road Facilities, SCH#2008091003) a 'Sanctified Cemetery' pursuant to California Public Resources Code §5097.97, the purpose of the public hearings of April 6, 2010 and June 17, 2010.

- B. *"The Staff Report Contains Inaccuracies and Misleading information regarding the Discovery of Human Remains And the Designation of the Most Likely Descendant. In Your and the Staff Report, include that: 1) human remains were found in 2009, and 2) the MLD was assigned in 2007-the District was first notified of an MLD Designation in February 2009."*

Response: The NAHC Staff Investigation Report contained some inaccurate information on the dates the remains were found at the Padre Dam project site location and the NAHC apologized for those errors to the Medical Examiner and to the Padre Dam Water District.

However, there is no dispute concerning the remains discovered from February 5th to March 11th, 2009. The sum total of the human remains fragments, numbering 14, representing three to eight separate Native American bodies is a fact, indisputable. Reports on those Native American discoveries are found in Attachment #1.

Furthermore, the NAHC designated the Kumeyaay Cultural Repatriation Committee (KCRC) as Most Likely Descendant (MLD) for the February and the March 2009 discoveries of Native American human remains, pursuant to California Public Resources Code §5097.98. The MLD designation is also included in Attachment #1.

C. "The District has Spent Significant Time and Effort Adhering to all Statutory Requirements of the Project."

Response: The NAHC does not dispute this statement; however, the concerns brought by culturally affiliated Native Americans, about the proposed project, pursuant to California Public Resources Code 5097.9, have yet to be resolved. There are still questions, asked in my letter to Attorney James Gilpin, representing The Padre Dam Water District, of May 27, 2010, regarding a full explanation of data recovery from the site. This is shown as Attachment #2.

D. "All of the Alleged Facts Relied Upon in the Staff Report Were Known to the NAHC Prior to the District's Adoption of the Mitigated Negative Declaration and NAHC's Concerns were Required to Have Been Raised during the CEQA Process."


Response: California Public Resources Code §5097.98 is a different California Code from the California Environmental Quality Act (CEQA) and the CEQA process. The NAHC is informed that the cultural sensitivity of this site has been expressed by the Native American monitors working there since 2007. Attachment #4 shows the September 23, 2007 Native American Monitoring Report submitted by Clint Linton of Red Tail Monitoring & Research.

E. "The District Has Taken All Requisite Mitigation Measures Pursuant to Public Resources Code Section 5097.98 and its Agreement With the MLD."

Response: The Kumeyaay Cultural Repatriation Committee (KCRC) informed the NAHC that the October 2009 letter to the Padre Dam Municipal Water District was based on insufficient and misleading information about the project and the site. As a result, the KCRC asked one of their members to represent them, as MLD, to address the issues of severe damage the project will cause Native American cultural resources and burial sites, based on the considerable damage the site has already suffered. This is affirmed in the "Declaration" signed by Steve Banegas, Spokesperson for KCRC, dated May 10, 2010, shown as Attachment #3. Further, Mr. Banegas has so apprised the Board President of the Padre Dam Municipal Water District in his letter dated June 2, 2010, shown as Attachment #5.

If you have any questions regarding this report, please let me know.

Respectfully submitted,


Dave Singleton
Program Analyst

DATE OF CALL 2/10/09
 DATE OF COMPUTER INPUT 2/15/09 INITIALS LD
 NO FURTHER ACTION (NFA) - INITIALS _____

REQUEST FOR ASSISTANCE REGARDING
 NATIVE AMERICAN HUMAN REMAINS

NAME Paul Parker TELEPHONE (858) 694-2898
 ADDRESS 5555 Overland Avenue #1411, San Diego CA
 COUNTY San Diego 92123
 ORGANIZATION (i.e. Coroner, Police, Private etc.) Medical Examiner
 DATE OF FIND: 2/5/09 TIME: _____
 DESCRIPTION OF REMAINS: one molar & small portion of a
distal humerus
 ASSOCIATED GRAVE GOODS: YES ~~Y~~ NO X DESCRIBE _____

MONITOR ON SITE: YES X NO _____ NAME Carmen Lucas
 LOCATION WHERE REMAINS FOUND: City East of El Cajon
Padre John Water District Site
 (ADDRESS) 1,500 ft. South of Ridge Hill / side Hwy 80
 FOUND ON: FED _____ STATE _____ COUNTY _____ CITY _____ PRIVATE _____ LAND _____
 PROJECT NAME: _____
 NAME OF DEVELOPER/PROPERTY OWNER: Michael Hale
ASM Affiliates TEL # (760) 917-3880
 LOCATION WHERE REMAINS BEING HELD: Archaeologist
 MOST LIKELY DESCENDENT CONTACTED: YES X DATE 2/5/09
 NAME OF MOST LIKELY DESCENDENT: KCRC
 FINAL DISPOSITION AND DATE: _____

Dave J. H.
 NAME

Additional information may be placed on back.

Rev. 5

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

515 CAPITOL MALL, ROOM 368
SACRAMENTO, CA 95814
(916) 443-4051
Fax (916) 637-6260
Web Site: naohc.ca.gov
e-mail: naohc@pacbell.net



February 10, 2009

The Hon. Steve Banegas, Spokesperson
Kumeyaay Cultural Repatriation Committee
1095 Barona Road
Lakeside, CA 92040-1541

RE: Native American Human Remains Discovered on Sierra Alta Way, approx 1500 feet south of Ridge Hill/Olde Highway 80 (Padre Dam Ridge Hill) east of El Cajon at Archaeological Site #CA-SDI-18472) February 5, 2009 by Micah Hale of ASM Affiliates (760) 917-3880; Carmen Lucas (619-709-4207) was the Native American Monitor at the site. Reported to the Native American Heritage Commission by Paul Parker, San Diego County Medical Examiner (858-694-2905) 2/10/2009 at 0716 a.m.; Assignment of Most Likely Descendant (MLD)

Dear Spokesperson Banegas:

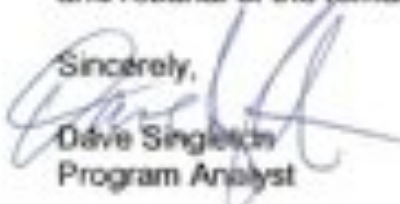
February 10, 2009 the Commission received notice from Paul Parker, San Diego County Medical Examiner, pursuant to California Health & Safety Code §7050.5, about a discovery of human remains that he determined to be Native American by the San Diego County Medical Examiner. The remains were discovered at a project east of El Cajon approximately 1,500 feet south of Ridge Hill/Olde Hwy 80 (Padre Dam Ridge Facility) by Archaeologist Micah Hale of ASM Affiliates. Carmen Lucas was the Native American Monitor and has knowledge of the discovery of the remains.

The Native American remains consist one molar and a small portion of a distal humerus. There were no associated grave goods in the report made to the NAHC.

The Commission is naming the Kumeyaay Cultural Repatriation Committee (KCRC) as Most Likely Descendant (MLD) pursuant to California Public Resources Code §5097.98. If you have any questions about this, please do not hesitate to contact me.

We request that you submit a report to the NAHC regarding the final disposition and reburial of the remains. We thank you for assuming this important task.

Sincerely,



Dave Singleton
Program Analyst

Cc: Larry Myers
NAHC Executive Secretary

From: "Parker, Paul R" <Paul.Parker@sdcounty.ca.gov>
 Subject: Report of Native American Remains
 Date: February 10, 2009 7:15:06 AM PST
 To: "Dave Singleton" <ds_nahc@pacbell.net>
 1 Attachment, 31.7 KB [Save](#) [Slideshow](#)

Hello Dave—

Attached is a report of Native American remains apparently reported to our office on February 5, 2009 (I just came back from a three-day weekend and the attached conformation was on my desk). Below is an email I originally sent to our on-duty folks advising of possible remains. The attached report is confirmation of those remains.

Thanks,
 Paul

From: Parker, Paul R
Sent: Thursday, February 05, 2009 12:56 PM
To: Goary, Gretchen B; Ramirez, James; Estrada, Julio; Hilgenkamp, Sherie; Burton, Christopher
Cc: Poggendorf, Rick; Wagner, Glenn
Subject: Possible human remains at archeology site

Just a heads-up:

On Friday, February 6, 2009, at approximately 1330 hours, Dr. Hinkes will be meeting with Micah Hale of ASM Affiliates (760-917-3880) just south of ISR 8 at the Lake Jennings Park Road exit (the site is actually on Sierra Alta Way approximately 1500 feet south of Ridge Hill/Clide Highway 80). Anyway, I spoke to Mr. Hale and he said it is definitely an archeology site with Native American artifacts throughout, however, the onsite Native American monitor, Carmen Lucas, is not certain whether what has been found so far are human remains and, if so, whether they are Native American. Dr. Hinkes will meet Hale tomorrow to see if she can help.

I am letting you know just in case Hinkes confirms the remains are Native American so you can complete the Native American Remains Report form.

Thanks,
 Paul



County of San Diego

GLENN S. WAGNER, D.O.
 CHIEF MEDICAL EXAMINER

CHRISTINA STANLEY, M.D.
 CHIEF DEPUTY MEDICAL EXAMINER

OFFICE OF THE MEDICAL EXAMINER
 3600 Overland Avenue, Suite 1471, San Diego, California 92123-1245
 TEL: (619) 694-2895 FAX: (619) 495-0958

NATIVE AMERICAN REMAINS

Medical Examiner's Case # No case assigned

Investigator: S. Joseph #12

Location Found: Archaeological dig site (PCA-FBI-18472) located at Padre Dam Ridge HBI Facility in east El Cajon.

Date Found: 01/05/2009

Reporting Agency: Mirah Hayle 360-917-3080

Pathologist: n/a

Date of Exam: Remains n/a

Findings: n/a

Anthropologist: Mirah Hayle and confirmed by Carmen Lucas, Prehistoric Monitor

Date of Exam: n/a

Findings: n/a

Odontologist: n/a

Date of Exam: n/a

Findings: n/a

Native American Heritage Commission Notified by: Mirah Hayle was going to notify the Native American Heritage Commission on his own.

Date: 01/05/2009

Time: n/a

Disposition: n/a

Date of release _____ To _____

Notes: Mirah Hayle and Prehistoric monitor, Carmen Lucas identified remains as pre-historic archaeological remains consisting of one pre-molar and a small portion of a distal humerus

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 633-6251
 Fax (916) 637-0380
 Web Site: www.nahc.ca.gov
 e-mail: ca_nahc@yahoo.com



May 5, 2009

The Hon. Steve Banegas, Spokesperson
 Kumeyaay Cultural Repatriation Committee
 1095 Barona Road
 Lakeside, CA 92040-1541

Sent by e-mail to bjcapa@hotmail.com

RE: Native American Human Remains Discovered at the Padre Dam Project of the Padre Dam Municipal Water District east of El Cajon March 9, 10, 11, 2009 by Micah Hale of ASM Affiliates (760) 917-3880; Carmen Lucas (619-709-4207) was the Native American Monitor at the site. Reported to the Native American Heritage Commission by Paul R. Parker, San Diego County Medical Examiner (858-694-2905) 3/19/

Dear Spokesperson Banegas:

February 10, 2009 the Commission named KCRC as Most Likely Descendant (MLD) for human remains, termed Native American by the San Diego County Medical Examiner. The recent March 2009 discoveries bring the total to **eight (8)** sets of remains at this site during the tenure of ASM Affiliates; associated grave goods, as you know, also were also discovered at the site along with the human remains. One set of Native American human remains were previously reported when EDAW, INC. was the proponent. ~~Per NAHC ruling KCRC is considered as the MLD for as long as this project exists.~~

However, the Commission (NAHC) is concerned that this area may constitute a 'burial ground,' for example EDAW, INC. advised the Municipal Water District to seek another site for its proposed Water Tank (for fire flow) and Pump Station. KCRC may want to consider making such a recommendation to the Water District after its investigation. The NAHC is willing to support KCRC, in the form of a letter, if they take such action. Just let us know what your decision is on this project. The landowner contact for this project is:

Mr. Al Lau, P.E.
 Padre Dam Municipal Water District
 9300 Fanita Parkway
 Santee, CA 92072-9003

If you have any questions about this, please do not hesitate to contact me.
We thank you for continuing to assume this important task.

Sincerely,


Dave Singleton
Program Analyst

PS: For your information, the Water District has hired yet another archaeological consulting firm: DUDEK & Associates of Santa Barbara

Cc: Larry Myers
NAHC Executive Secretary

Request for Assistance Regarding Native American Human Remains

New Discovery	x	Update of Previous Discovery	Update Date	Date of Computer Input	9/15/2009
Document Filed:	Month	Year	No Further Action		
County	San Diego		Coroner Case Number		
Site Number			Date of Call	2/10/2009	
Name	Paul Parker			Phone Number	
Address	5555 Overland Ave, San Diego, CA 92123			Organization Type	
Organization	Medical Examiner				
Date of Find:	Month	February	Date	5	Year 2009
Description	one molar and small portion of a distal humerus			Time	Burial No.
			Associated Grave Goods		
Project Name	Eastern Service Extension; Water Tank Reserv oir			Ownership	
Lead Agency	Padre Dam Municipal Water District			County	
Project Location	1500 ft South of Ridge Hill/Olde Hwy 80			City	
Developer/ Property Owner	Micah Hale of ASM Affiliates			east of el cajon	
Phone Number monitor	carmen lucas			Monitor Phone Number	
MLD	Kumeyaay Cultural Repatriation Commissio n			Date MLD Contacted	2/10/2009
MLD Phone Number	Remains Being Held			archaeologist	
Final Disposition	Disposition Date				
Comments					

Request for Assistance Regarding Native American Human Remains

New Discovery	Update of Previous Discovery	Update Date	Date of Computer Input	5/19/2009	
Document Filed: Month		Year	No Further Action		
County	San Diego	Coroner Case Number			
Site Number		Date of Call	5-5-2009		
Name	Paul Parker		Phone Number	858-694-2698	
Address	9775 Businesspark Avenue, #200		Organization Type		
Organization	Medical Examiner				
Date of Find:	Month	Date	Year	Time	Burial No.
Description			Associated Grave Goods		
Cluster of Bone Fragments found in the separate excavations March 9, 10 and 11, 2009 by Micah Hale, Archaeologist for ASM Affiliates			No		
Project Name	Eastern Service Extension		Ownership		
Lead Agency	Padre Dam Municipal Water District		County		
Project Location	Ridge Road Near I-8 and Lakeside		City		
Developer/Property Owner	Padre Dam Municipal Water District				
Phone Number monitor	Clint Linton		Monitor Phone Number		
MLD	Steve Banegas-KCRC		Date MLD Contacted	Yes	
MLD Phone Number			Remains Being Held in custody of Native American Monitor		
Final Disposition			Disposition Date		
Comments					

From: "Micah Hale" <mhale@asmaffiliates.com>
Subject: **Padre Dam contact info**
Date: April 14, 2009 10:13:24 AM PDT
To: <nahc@pacbell.net>

Hi Dave,

Nice talking to you again on the phone.

Here is the contact information for our client, Padre Dam Municipal Water District.

Mr. Al Lau, P.E.
Padre Dam Municipal Water District
9300 Fanita Parkway
Santee, CA 92072-9003
619-596-1804
619-778-6274

Micah Hale
ASM
760-804-5757

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 650-4251
Fax (916) 657-5390
Web Site: www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



May 27, 2010

Mr. James B. Gilpin, Esq.,
BEST BEST & KRIEGER
Attorneys at Law
655 West Broadway, 15th Floor
San Diego, CA 92101

RE: Padre Dam Municipal Water District "Eastern Service Area Secondary Connection Project
State Clearinghouse No. 2008091003; Ridge Hill Road, San Diego County, California."
Response to Your Letter of May 21, 2010

Dear Mr. Gilpin:

Thank you for your letter of May 21, 2010. As you are aware by now, there is no delay or uncertainty regarding the Native American Heritage Commission (NAHC) Public Hearing on the above referenced issue. It is unfortunate that our efforts to accommodate your request for a NAHC Public Hearing date in late May did not work out. However, the Public Hearing has been set for June 17, 2010, beginning at 1:00 p.m. at the State of California Building auditorium (basement), 1350 Front Street, San Diego CA 92101. Therefore, the Public Hearing will address the issue of whether or not the project will a) cause "severe and irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property....." pursuant to California Public Resources Code §5097.97.

Regarding the concern that the NAHC's designation of the Kumeyaay Cultural Repatriation Committee (KCRC) as Most Likely Descendant (MLD) for this project, as a result of additional information about the site in November and December of 2009, KCRC asked one of its sovereign nation members, Viejas Band of Kumeyaay Indians, to assume the MLD's responsibilities for this project.

Furthermore, the NAHC is sensitive to the frustration and the cost that landowners and developers experience as they seek to comply with federal state and local environmental laws and ordinances. However, this case is related not only to environmental requirements, but to the protection for Native American cemeteries, as defined by state law and as declared in data offered by the San Diego County Office of Medical Examiner.

We are disturbed by the announcement that the "District has no choice but to move forward with the Project." I call to your attention our letter of February 24, 2010 to Neal Brown of the Padre Dam Municipal Water District (PDMWD) which states, in part, "Therefore, the Padre Dam Municipal Water District is, hereby, put on notice by the NAHC to stop such plans and/or activity until a complete analysis is made of the impact of this project on Native American cultural resources." The analysis between you and the Viejas Band of Kumeyaay Indians, represented as Most Likely Descendant, are still in process and the cultural preservation and

protection issues are still unresolved. Therefore, the NAHC continues to urge the PDMWD to postpone construction activity until all concerns between the parties are resolved. The NAHC stands ready to assist in this process as appropriate and as committed in our mid-March 2010 letter to your firm, representing the PDMWD.

If you have any questions about this, please do not hesitate to contact me.

Sincerely,



Larry Myers
NAHC Manager

Cc: The Hon. Bobby Barrett, Chair
Viejas Band of Kumeyaay Indians

Dan McMillan, President
Padre Dam Municipal Water District

The Hon. James Ramos, Chair
Native American Heritage Commission

Anotonette Cordero, Deputy Attorney General
State of California

Dave Singleton, Program Analyst
Native American Heritage Commission

Mission Statement

To protect and preserve unexcavated, sacred
burial and sacred objects under the Native
American and Graves Protection Act
NAGPRA for today and future generations

**Member Tribes**

Barona Campo Ewasangu Inaja Jamul
La Posta Manzanita Mesa Grande
San Pasqual Santa Ysabel Sycuan Viejas
Steve Banegas, Spokesman

Kumeyaay Cultural Repatriation Committee

NATIVE AMERICAN HERITAGE COMMISSION
PUBLIC HEARING
May 12, 2010

DECLARATION OF STEVE BANEAS IN SUPPORT OF A REQUEST BY THE VIEJAS BAND OF KUMEYAAY INDIANS THAT THE NAHC MAKE FINDINGS THAT THE SECONDARY CONNECTION PROJECT SITE CONTAINS A SANCTIFIED INDIAN BURIAL AND CEREMONIAL SITE

May 10, 2010

I, STEVE BANEAS, DECLARE AND STATE AS FOLLOW:

I am the Spokesman of the Kumeyaay Cultural Repatriation Committee, which is also known as KCRC. KCRC is a consortium of the Barona, Campo, Ewasangu, Inaja, Jamul, La Posta, Manzanita, Mesa Grande, San Pasqual, Santa Ysabel, Sycuan and Viejas Bands of the Kumeyaay Nation. I have been involved with KCRC and repatriation since 1997. I am a Tribal member of the Barona Band of Mission Indians.

The Kumeyaay Cultural Repatriation Committee was formed in 1997 for the purpose of repatriating human remains, artifacts and objects of cultural patrimony to the twelve Kumeyaay Tribes of San Diego. KCRC continues the work on repatriation started by Ewasangu Tribal Chairman Tony Pinto and other tribal leaders after the passage of the Native American Graves Protection and Repatriation Act (NAGPRA).

KCRC meets once a month on the first Thursday of the month at 10:00 am to discuss repatriation activities and organize site visits for the purpose viewing collections and sites. Tribes volunteer to host the meetings. Everything is done on volunteer basis.

On September 5, 2009, representatives of Padre Dam attended a KCRC meeting on the Viejas Reservation, Viejas being the meeting host for that month. The presentation Padre Dam gave was to inform KCRC about the project they wanted to do near Lake Jennings. Padre Dam showed us a power point presentation which included a project-site drawing, and discussed some of the cultural resources found at the site.

On September 5, 2009, representatives of Padre Dam attended a KCRC meeting on the Viejas Reservation, Viejas being the meeting host for that month. The presentation Padre Dam gave was to inform KCRC about the project they wanted to do near Lake Jennings. Padre Dam showed us a power point presentation which included a project-site drawing, and discussed some of the cultural resources found at the site.

Padre Dam told us the land there was private land, not public land. A lot of the tribal representatives at that meeting didn't think they could do anything with regard to the project because it was on private land. Even so, several of the delegates told Padre Dam not to destroy the site. The representatives felt that every time agencies wanted to do a project and needed land they would get private land, which keeps Kumeayay people from doing anything to protect the cultural resources. It wasn't until much later that we found out that the project site is actually public land because it's now owned by Padre Dam, a public agency.

KCRC representatives received a copy of the cultural resource report at this meeting. One of the KCRC delegates asked Padre Dam if remains had been found on the property prior to the purchase of the land. The answer was yes. Padre Dam told us about the history of the property and what was found there. They told us that there were only 14 pieces of human remain fragments found in the testing pits they recently tested. Native American monitors present at the meeting voiced there is a good chance more human remain fragments would be discovered and the land should be considered an Indian burial ground. Padre Dam seems to have ignored the Native American monitors present at the site. KCRC knew there were more than one archeological firm associated with the project and there had been problems, but KCRC thought at the time we couldn't do anything because we were mislead to believe the property was private land. Pad Dam also never told KCRC at this meeting that there were both potential on-site and off-site alternatives for the project. KCRC feels the Padre Dam Water Authority misrepresented the information about the cultural resources, public lands, and potential off-site alternatives for this project.

The only reason KCRC made recommendations with regard to the Padre Dam Water Authority project was we believed there were only 14 fragments found at the site. KCRC did not give Pare Dam Water Authority permission to destroy the site. In a letter dated October 13, 2009 KCRC made requests with the intentions to preserve as much of this site as possible.

When Viejas came to KCRC with their concerns in 2010, the KCRC delegates made decision at the February 4, 2010 monthly meeting, to turn the MLD designation over to Viejas. On February 8, 2010, KCRC simultaneously conveyed the MLD transfer information in a letter to Viejas Band of Kumeayay Indians and Native American Heritage Commission.

KCRC stands behind the Viejas Band of Kumeayay Indians as the MLD and does not support the destruction of our ancestral burial grounds and ceremonial places.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS DECLARATION WAS SIGNED ON MAY 10, 2010 AT ALPINE, CALIFORNIA.


Steve Banegas, KCCAC Spokesman



Red Tail Monitoring & Research, Inc.

Native Monitoring Report & Recommendations

Re: Padre Dam Water District Project.

To Whom It May Concern,

9-23-07

With regard to the above mentioned project, Red Tail Monitoring & Research, Inc. has the following comments and concerns:

The Padre Dam Water District Project was conducted by ASM affiliates. All field methodology was consistent with proper techniques for Archaeological test excavation.

Minimal ground disturbance should occur on site. Potential for human remains is high on this site containing dark midden soil. We would like for this site to be considered significant and avoided. Redesign with native consultation should take place. In the event that full avoidance can not take place, 100% data recovery should be implemented. Water-screening of all soils is the most affective method for data recovery.

This site will be nominated for the Sacred Lands File with the State of California, Native American Heritage Commission (NAHC).

Please feel free to contact me if there are any questions or concerns,

Thank you,

Sincerely

Clint Linton

P.O. Box 507 Santa Ysabel, CA 92070

Cc: Dave Singleton, NAHC

Mission Statement

To protect and preserve ancestral remains, sacred
lands and sacred objects under the Native
American and Graves Protection Act
(NAGPRA) for today and future generations

*Member Tribes*

Barona Canyon Eshiwagwa Tribe, Jomil
La Pasa Maricopa, Mescal Grande
San Diego, Santa Ysabel, Sycuan Viejas
Serra Band of Pomoans

Kumeyaay Cultural Repatriation Committee

June 2, 2010

President Dan McMillan
Padre Dam Municipal Water District
Board of Directors
P.O. Box 719003
San Jose, CA 95072

Dear President McMillan:

I am writing to correct several false statements made by Padre Dam representatives that have recently come to our attention, including through public media as the San Diego Union Tribune.

First, in the most recent submission to the Native American Heritage Commission, and in a letter dated May 21, 2010 (to Dave Singleton), your attorney states that the designation of Viejas as the MLD for the Ridge Hill Project was the result of a "disagreement" between KCRC and Viejas. This is a false statement. There has never been a disagreement between KCRC and Viejas. The designation resulted from a request by Viejas, who identified themselves as those most likely to be culturally affiliated with those who had been, and are, buried at the site. KCRC agreed that in light of Viejas' belief—and misrepresentations by Padre Dam (discussed below)—that Viejas should be designated MLD.

Secondly, Padre Dam repeatedly relies on an alleged "agreement" between KCRC and Padre Dam regarding mitigation of tribal cultural resource impacts and construction on the site. KCRC's representative, a husband and wife, as MLD and therefore Viejas is considered the decision-maker regarding tribal cultural resources at the project site to Viejas. KCRC encourages Padre to make every effort to come to a resolution relating to this project site and to the treatment of any other human remains, grave goods, or other associated objects.

Thirdly, Padre Dam repeatedly has misconstrued the nature of the prayer held at the project site: this was not a "blessing" of the project or the District providing the District with permission to move forward with the project and desecrating a burial and ceremonial site. Instead, this was a prayer asking our ancestors for forgiveness on our behalf for not being able to stop the disturbance of buried ancestors in this day and time.

Finally, in the time that has elapsed since our last meeting with Padre Dam, more information has been revealed to KCRC about the nature of the discoveries at the current project site. We believe that Padre Dam at its meeting with KCRC on September 9, 2009 deliberately provided to KCRC incomplete and misleading information about the project to further its purpose, including:

1. representing that the property was private land, not public land;
2. representing that only 14 bone fragments were found—and not indicating that those fragments represented between 3 and 8 different individuals and that the unidentified bone could indicate additional individuals;
3. failure to indicate the unusually high concentration of pottery sherds at the site, which indicate to Kurnaysay peoples that this is a cremation and burial site; and
4. failure to share with KCRC that there were at least two alternative on-site designs, and at least two off-site alternative locations for the project;
5. failure to tell us the whole property would be torn up.

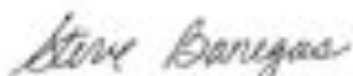
KCRC did not have all the relevant information, and therefore could not have made a fully informed recommendation about mitigation of tribal cultural resources impacts at the site. If the full extent of the human remains, grave goods, and other associated artifacts had been revealed to us in a timely manner, KCRC would have recommended avoidance of the project site altogether. In fact KCRC's letter to the District clearly stated, "It is KCRC intention to preserve as much of this site as possible." Even during our discussions with Padre Dam several delegates warned that there was more to this site, and voiced their opinions that the project should be moved. Any shame is not on KCRC or Viejas, but on the District for how it selectively presented the information to us and how it continues to downplay the impacts to others after being told what this place means to us.

Despite Padre Dam's statements to the contrary, KCRC never gave Padre Dam permission to destroy the site as they have done. In fact, delegates were shocked when they did a site visit in December 2009 at how the site had been treated and impacted. Any mitigation recommendations were made by KCRC if Padre could not avoid the current site and preserve as much of the site as possible. To date, Padre has never provided any information that that avoidance of the site was not an option.

KCRC understands that this project is important. However, Padre Dam, as a public agency, is required to follow all applicable law when carrying out a project to benefit the public. KCRC was misled. We urge you to continue negotiations with Viejas, the current MLD, to amicably resolve this issue, including potential recommendations on how to appropriately treat the property and how it should be monitored, if any project work continues, and KCRC urges the District to remove this project to an alternative site.

KCRC has lost trust in the District. It is our hope that the District will in the future provide KCRC with full and accurate information, describing and analyzing the resources in a way that is meaningful to local tribal people, not just archaeologists. We also hope the District will adopt policies and procedures so that the destruction of our burial grounds and ceremonial areas can be avoided on future projects.

Sincerely,



Steve Banegas, Spokesman
Kumeyaay Cultural Repatriation Committee

cc: Larry Myers, NAHC
Chairman Bobby Barrett, Vicjas